IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.6750 OF 2002

1) P.M. Joshi)

2) Mrs.A.P. Joshi)
Both presently working as L.D.C.)
in Naval Aarmament Depot, Karanja)
and residing at 2003, Shivashakti)
Co-op. Hsg. Society, Kamatha)
Taluka-Post Uran,)
District Raigad 400 702).. PETITIONERS

Versus

1) The Union of India)
through Secretary, Ministry of)
Defence, Sena Bhavan, South Block)
New Delhi 11.)

2) The Chief of the Naval Staff)
Naval Head Quarters,)
Post New Delhi.)

3) The Flag Officer Commanding-in-Chief)
Head Quarters, Western Naval)
Command, Shahid Bhagat Singh Road)
Mumbai 400 001.)

4) The Director General of Armament)
Supply Naval Head Quarters)
West-Block V, R.K. Puram)
New Delhi 110 066.)

5) The General Manager)
Naval Armament Depot,)
Gun Gate, Mumbai 400 023.)

6) The General Manager)
Naval Armament Depot, Karanja)
P.O.NAD, Karanjo, Tal. Uran)
Dist. Raigad-400 704.)

7) Shri V.K. Nandakumar, LDC.)

8) Smt.Premlata, LDC.)

9) Shri P.Sankara Pillai, LDC.)

10) Shri R. Sitaram, LDC.)

11) Shri D. Shivaprasad, LDC.)

12) Smt.G. Nalini, LDC.)

13) Shri J.A. Vartak, LDC.)

14) Smt.Shaila N. Mahamkar, LDC.)

15) Shri K.J. Chandrala, LDC.)

16) Shri K.V. Sawant, LDC.)

17) Shri J.A. Gharat, LDC.)

18) Shri K.N. Thali, LDC.)

19) Shri A.V. Vengulekar, LDC.)
Respondent Nos.7 to 9 and 12 C/o.)
The General Manager, Naval Armament)
Depot, Alwaye-683 563, State of Kerala)
Respondent No.10 to 11 C/o.The General)
Manager, Naval Armament Depot)
Vishakhapatanam-530 009,)
State of Andhra Pradesh.)
Respondent No.13 to 19 C/o.The General)
Manager, Naval Armament Depot)
Gun Gate, Mumbai 400 023.)..RESPONDENTS

Mr.M.A. Chaudhari with Mr.P.K. Deshmukh for the Petitioners.

Mr.A.R. Mishra with Mr.D.A. Dube for Respondent Nos.1 to 6.

None present for Respondent Nos.7 to 19.

CORAM: V.G. PALSHIKAR, Ag. C.J. AND SMT. NISHITA MHATRE, J.

DATED: 16TH FEBRUARY 2006

ORAL JUDGMENT (PER MHATRE, J.)

. The question involved in this Petition is whether the Petitioners are entitled to seniority from the dates of their joining service or from the dates on which they were regularised in service. The Central Administrative Tribunal has dismissed the Original Application No.1024 of 1998 filed by the Petitioners on the ground of limitation while upholding their

contention that the seniority must be fixed as per the initial date of appointment in service.

2. Both the Petitioners were appointed as casual Lower Division Clerks with Naval Armament Depot, Karanja. They were continued in service on a casual basis till both the Petitioners were regularised in service on 25th November 1985. The Petitioners found that their seniority was wrongly fixed with effect from 25th November 1985, the date on which they were regularised in service. A representation was, therefore, made by the Petitioners to the Respondents for correction of the seniority list. Their representation was rejected as the Respondents were of the view that seniority from the dates of joining could be fixed only of those who had approached the Central Administrative Tribunal. Accordingly, in November 1998, the Petitioners filed Original Application No.1024 of 1998. This Original Application has been rejected only on the ground of limitation. The Tribunal was of the view that the Petitioners ought to have approached the Court much earlier and the inordinate delay would upset the seniority list which had been settled much earlier. However, the Tribunal has observed that the Petitioners' contention was justified and that their seniority ought to have been fixed from their respective dates of initial appointment in service.

3. We have heard the learned Counsel for the

Petitioners as well as the Respondents. In our opinion, the Tribunal was in error in dismissing the application. The Respondents ought to have on its own fixed the seniority in accordance with the settled position of law which is that seniority is to be fixed as per the date of initial appointment and not from the date of regularisation. The Tribunal having concluded that this was a well settled position in law, in our opinion, it ought to have allowed to the Original Application and not rejected the same on account of limitation. It was only because of the Respondents insistence that seniority could be fixed in a proper manner in case of those who had approached the Administrative Tribunal that the Petitioners were required to approach the Tribunal. In fact, it was the duty of the Respondents to fix the seniority appropriately rather than to raise a technical plea of limitation.

4. The impugned order dated 28th June 2002 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai in Original Application No.1024 of 1998 is set aside. The Petitioners will be entitled to seniority from their initial dates of appointment in service. Rule made absolute in terms of prayer clauses (a), (b) and (c). No order as to costs.

(V.G. PALSHIKAR, Ag.C.J.)

(SMT.NISHITA MHATRE, J.)